

[Contractor's name] (**Contractor**)

[Contractor's address]

[Date]

Attention: [Insert name of contact]

Dear [Greeting],

[Insert name of Programme] – **Commercial Research Agreement - Offer Letter**

- a. Congratulations, we can't wait to see what you will achieve and very much look forward to working with you and your team.
- b. You recently submitted an application in response to [Insert name of competition or process to which the application was submitted]. We are pleased to confirm that ARIA wishes to appoint you to deliver the contract research services as described in the Project for ARIA, subject to the terms and conditions set out in this Offer Letter and its Schedules.

## 2. **Overview of the Agreement**

*Any reference in this Offer Letter to you or your means the Contractor and any capitalised terms have the meanings given in Schedule 1 below).*

- a. Certain variables of the Agreement are set out in the table below:

<b>Project</b>	The project entitled [Insert project title], details of which can be found in Schedule 2.
<b>Maximum Approved Cost (exclusive of VAT)</b>	Maximum Approved Cost (exclusive of VAT) is:
<b>Commencement Date</b>	The commencement date is [Add Date]
<b>Completion Date</b>	The completion is [Add Date]
<b>Project Period</b>	means the period commencing on the Commencement Date and ending on the Completion Date or such later date as may be agreed between the parties unless otherwise determined in accordance with the terms of the Agreement;
<b>Monitoring and Reporting</b>	The performance reports referred to in clause 7 of Schedule 1 shall be provided by you [annually/quarterly/at intervals to be determined by ARIA] and shall be sent to the [XXX]

<b>Contractor's Representative</b>	[Insert name, title and contact details (phone and email) of Contractor's Representative]	
<b>ARIA's Representative</b>	[Insert name, title and contact details (phone and email) of ARIA Representative]	
<b>Escalation Contacts</b>	<b>ARIA</b>	<b>Contractor</b>
	[Insert name, title and contact details (phone and email) of ARIA's Escalation Contact]]	[Insert name, title and contact details (phone and email) of Contractor's Escalation Contact]]
<b>Notices</b>	[Insert name, title and contact details (phone and email) of ARIA's Official POC for Notices]]	[Insert name, title and contact details (phone and email) of the Contractors Official POC for Notices]]

- b. You will undertake the Project as a contract research and development project carried out at the direction of and for the benefit of ARIA's programmes.
- c. ARIA will pay you the Approved Cost as set out in Schedule 2 for:
  - i. undertaking the Project;
  - ii. in respect of the licensing of Intellectual Property rights in the Results to ARIA and the discounted prices to Crown Bodies under Clause 16.9 of the Conditions; and
  - iii. any assignment made pursuant to Clause 16.2 of the Conditions.
- d. No payments will be made until the approvals sought pursuant to Clause 2.5(e) of the Conditions are obtained unconditionally.

### 3. The Agreement

- a. Once you sign a copy of this Offer Letter in accordance with paragraph 6 (Acceptance) below, it will form a binding **Agreement** between you and ARIA that includes and incorporates the following documents:
  - i. the **Conditions** in Schedule 1;
  - ii. the **Project Activities, Agreed Outputs** and **Application** in Schedule 2;
  - iii. the **ARIA Non-UK Fee provisions** in the annexes in Schedule 3;
  - iv. [the terms relating to Data Protection in Schedule 4. [Optional]]

- b. The contract effected by the signing of this Offer Letter constitutes the whole agreement between the parties and supersedes all prior negotiations, agreements, representations or understandings between them relating to the subject matter of this Agreement.
- c. Each party acknowledges that, in entering into the Agreement, it does not rely on any statement, representation, assurance or warranty (Representation) of any person (whether a party to this Agreement or not) other than as expressly set out in the Agreement. Each party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract.
- d. If you have previously entered into a Letter of Intent with ARIA under which ARIA has agreed for you to start the Project Activities, any payments made to you will be taken account in and form part of the Approved Cost, and those activities already carried out by you will be deemed to be Project Activities that have been carried out under the Agreement. [Optional]

#### **4. Warranties**

- a. By signing this Offer Letter, you warrant and represent that:
  - i. your obligations under the Agreement are legal, valid, binding and enforceable;
  - ii. all authorisations and consents necessary to enable you to enter into and perform the obligations in the Agreement have been obtained;
  - iii. the person signing the Agreement is duly authorised to sign on your behalf;
  - iv. there are no actions, suits or proceedings pending or, to your knowledge, threatened against or affecting you before any court or administrative body or tribunal that might affect the ability of you to meet and carry out your obligations under this Agreement;
  - v. the Project will be carried out by appropriately experienced, qualified and trained personnel with all due skill, care and diligence;
  - vi. you will discharge your obligations hereunder with all due skill, care and diligence including, but not limited to, good industry practice and (without limiting the generality of the foregoing) in accordance with your own established internal procedures; and
  - vii. the provision of the Project and ARIA's use of the Intellectual Property rights in the Foreground IP granted shall not infringe any Intellectual Property rights of any Third Party.

#### **5. Amendments to Schedule 1**

- a. [insert any agreed amendments to the Conditions in Schedule 1 here, and if none delete this section]

#### **6. Acceptance**

- a. To confirm your acceptance of the Agreement please arrange for an authorised signatory to sign and date the duplicate copy of this Offer Letter as indicated below and return to ARIA as a complete signed original of the Offer Letter including its Schedules, accompanied by evidence of the authorised signatory's authority to enter into the Agreement and to bind the Contractor.
- b. This Offer Letter expires on [insert timescale] and any acceptance received after this date will not be valid.

Yours sincerely

Signed by the duly authorised signatory  
of ARIA:

Signature           ▪  
Full Name           ▪  
Position Held       ▪  
Date                ▪

Signed by the duly authorised signatory  
of [Contractor /Add name of legal entity]:

Signature           ▪  
Full Name           ▪  
Position Held       ▪  
Date                ▪

## **SCHEDULE 1 CONDITIONS**

### **1. PRECEDENCE**

1.1 Where there is any conflict between the documents that make up this Agreement the conflict will be resolved in accordance with the following order of precedence:

- (a) the Offer Letter;
- (b) these Conditions;
- (c) the remaining Schedules to this Agreement with the exception of Schedule 2 Part 3 (the Application);
- (d) Schedule 2 Part 3 (the Application); and
- (e) any other documents incorporated by reference in, or developed in accordance with, this Agreement.

### **2. DURATION AND OBLIGATIONS OF THE PARTIES**

2.1 The Agreement will subsist for the duration of the Project Period unless extended by agreement or terminated earlier in accordance with its terms. Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement shall remain in full force and effect.

2.2 You shall manage and complete the Project in accordance with the specification as set out in Schedule 2 Part 1 and shall allocate sufficient resources to the Project to enable you to comply with this obligation.

2.3 ARIA may request changes to the Project Activities (including changing the Approved Cost and/or the scope of the Project Activities) by providing at least 30 days written notice to you of such changes and the rationale. ARIA will agree with you the terms of any variation to the Agreement requested by ARIA to implement such changes subject to clause 26 with your agreement to the variation not to be unreasonably withheld, delayed or conditioned.

2.4 You shall meet any performance dates specified in Schedule 2 Part 1 or elsewhere in the Agreement and the obligations of this clause 2.

2.5 You shall:

- (a) co-operate with ARIA in all matters relating to the Project; and
- (b) promptly inform ARIA of the absence of the Contractor's Representative and/or Key Staff and you must provide a suitably qualified replacement approved by ARIA;
- (c) observe, and ensure that all member of your Staff observe, all rules and regulations and any other reasonable requirements of ARIA; this shall include and not be limited to ensuring that the Approved Cost shall be utilised in accordance with the Project cost breakdown submitted by you at Project tender stage covering all Project materials, equipment and any applicable Sub-Contractor costs;

- (d) notify ARIA as soon as you become aware of any issues which arise in relation to the Project;
- (e) before the Commencement Date obtain, and at all times maintain, all necessary licences and consents and comply with all relevant legislation in relation to the Project.

2.6 You acknowledge and agree that ARIA is entering into this Agreement on the basis that the details of the Project are accurate and complete in all material respects, and not misleading.

### **3. ENVIRONMENTAL REQUIREMENTS**

3.1 In performing the Project, you shall, to the reasonable satisfaction of ARIA, meet the requirements of all applicable Laws regarding the environment and safety, including laboratory safety requirements, in all material respects.

### **4. ACCOUNTING AND PAYMENTS**

4.1 The total amount to be paid by ARIA to you shall not exceed the Approved Cost amount detailed in Schedule 2 Part 2. Invoices raised by you for Agreed Output Payments shall be paid by ARIA based on progress toward the delivery of the Agreed Outputs to the reasonable satisfaction of ARIA as assessed under clause 6.

4.2 Payments to third parties including Sub-Contractors shall remain your responsibility and you shall ensure that such payments are made promptly within 30 days from the receipt of a valid invoice.

4.3 ARIA may suspend payment at any time if in the view of ARIA, acting reasonably, satisfactory progress on the Project has not been maintained, or reports have not been submitted as required under Clause 7.

4.4 You shall not make any material changes to the Project Activities detailed in Schedule 2 Part 1, or the total amount payable under the Agreement, without prior written approval of ARIA.

4.5 On completion of the Project Period, the final payment in respect of costs properly incurred under the Agreement will be paid by ARIA to you within 30 (thirty) days, provided that:

- (a) the Project has been completed to the reasonable satisfaction of ARIA;
- (b) the reports required under Clause 7 have been submitted by you; and
- (c) an agreement has been reached in respect of any items remaining for disposal.

4.6 If at any time an overpayment has been made to you for any reason whatsoever, the amount of such overpayment shall be taken into account in the assessing of any further payments or shall be recoverable from you at ARIA's discretion.

4.7 You shall keep and maintain until seven years after this Agreement has been completed, or as long a period as may be agreed between the Parties, full and accurate records of the Project including:

- (a) all aspects of the Project;

- (b) all expenditure reimbursed by ARIA; and
- (c) all payments made by ARIA;

and you shall on request afford ARIA or ARIA's representatives such access to those records as may be required in connection with the Agreement.

- 4.8 Wherever, under the Agreement, any sum of money is recoverable from or payable by you (including any sum that you are liable to pay to ARIA in respect of any breach of the Agreement), ARIA may unilaterally deduct that sum from any sums due now or in future under the Agreement or under any other agreement or contract with ARIA.
- 4.9 You shall make any payments due to ARIA without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless you have a valid court order requiring an amount equal to such deduction to be paid by ARIA to you.
- 4.10 If any sum of money shall be due from you to ARIA or any other government department, the same may be deducted from any sum due now or in future to you under this Agreement or any other agreement with ARIA or with any other Crown Body.

**5. NOT USED**

**6. PROJECT REVIEW**

- 6.1 ARIA will review the Project at the intervals specified in Schedule 2 Part 1. The review will take into account your carrying out of the Project Activities against the Agreed Outputs. As part of the ARIA review process, ARIA will review the reports produced by you in accordance with clause 7.
- 6.2 Following the review carried out under clause 6.1, ARIA may choose to do any of the following, taking into account any representations made by you in the course of the review:
- (a) consent to the Services and the Project continuing in line with existing plans;
  - (b) increase or decrease the Approved Cost for the remainder of the Project Period, as applicable;
  - (c) redefine the Agreed Outputs; or
  - (d) require you to carry out remedial activity with the aim of improving delivery of the Services.
  - (e) terminate the Grant Agreement in accordance with clause 22.

6.3 Any change will be recorded in a written variation to the Agreement.

**7. MONITORING AND REPORTING**

7.1 NOT USED

7.2 ARIA will require details of all Results and all material Foreground IP, so you must allow ARIA personnel to visit your premises at a reasonable frequency and at dates and times agreed with

you to liaise freely with your researchers for the purpose of identifying Foreground IP, evaluating Agreed Outputs and assessing progress with the Project against the specifications detailed in Schedule 2 Part 1. ARIA will treat the Results and Foreground IP, and other information it learns from such visits, as your Confidential Information under clause 11.

7.3 You must provide ARIA with:

- (a) the Agreed Outputs and a report on your performance against them at the intervals and for the periods of time specified in Schedule 2 Part 1 and otherwise in compliance with the request of ARIA's Representative and shall detail all Data, methods, Results and provisional conclusions together with management information and any other information relating to the Project;
- (b) verbal or written reports and ad hoc meetings or discussions as reasonably required by ARIA on any aspect of the Project; and.
- (c) details broken down in accordance with ARIA's prescribed form of all Approved Costs.

7.4 ARIA is built for long-term impact and needs to be kept informed of the impact of its Project activities and compliance with the terms of the Agreement. ARIA will therefore have the right to make reasonable requests for information from you from time to time after the end of the Project about any commercial exploitation or other dissemination of the Results and how this has benefited the United Kingdom. You must respond and provide the information requested within one month (unless ARIA specifies otherwise). If requested, ARIA will treat the information provided as your Confidential Information under clause 11. Nothing in this Agreement will be deemed to limit ARIA's ability to use, share or publish such information as part of aggregated and anonymised reporting. This clause 7.4 shall survive termination or expiry of this Agreement.

## **8. AUDITING AND ASSURANCE**

8.1 You must provide supporting evidence as ARIA may reasonably require to prove that you have used the Approved Costs to carry out the Project and provide the Services in accordance with Schedule 2 Part 2. The supporting evidence shall clearly identify all Project and associated overhead costs. You shall maintain proper financial records relating to the Project at all times during the Project Period and for a period of seven years after the end of the Project Period.

8.2 ARIA and/or its authorised representative or any statutory or regulatory auditors may, at any time during the Project Period and for up to 7 years after the end of the Project Period, conduct audits in relation to your financial records for the Project and your compliance with this Agreement. You must act reasonably in cooperating with any such audit, including by granting access to relevant documentation, premises and personnel.

## **9. FINANCIAL MANAGEMENT**

9.1 You must:



- (a) maintain a sound administration and audit process, including internal financial controls, to safeguard against fraud and theft, money laundering, terrorist financing or any other impropriety, or mismanagement in connection with the administration of the Project; and
- (b) notify ARIA of any actual or suspected cases of fraud, theft or financial irregularity relating to the Project as soon as they are identified, and keep ARIA informed of your remedial actions.

9.2 In the event of any actual or suspected fraud, theft or other financial irregularity ARIA may, at its absolute discretion:

- (a) require you to take any remedial steps that ARIA may reasonably specify; and/or
- (b) suspend future Agreed Output Payments to you,

and in all cases you must explain to ARIA what steps are being taken to investigate the irregularity and must keep ARIA informed about the progress of any such investigation. You must, if required by ARIA, refer the matter to an external auditor or any other relevant Third Party.

## **10. CONFLICTS OF INTEREST**

10.1 You must inform ARIA promptly of any actual, perceived or potential conflict of interest your and your Representatives obligations under the Agreement and your and their personal, business or professional interests. You must have adequate procedures to manage and monitor any actual or potential conflicts of interest, whether identified in the application process or notified to ARIA during the Project Period.

10.2 If ARIA is not satisfied that you are adequately managing any actual or potential conflicts of interest, or that they are not capable of such management, the parties will discuss the issues raised and try to agree a resolution. If this is not possible, ARIA may require you to cease the conflicting activity and if that is not acceptable to you, you may terminate this Agreement on at least 30 days' notice in writing.

## **11. CONFIDENTIALITY**

11.1 Except to the extent set out in this clause 11 or where disclosure is expressly permitted by the other party, each party must treat all Confidential Information belonging to or disclosed by the other party as confidential and will not disclose any such Confidential Information to any other person without the prior written consent of the other party, except to any persons who are directly involved in the Project, who need to know the information and who are subject to binding obligations of confidentiality to the disclosing party.

11.2 ARIA may publish a summary of this Agreement in any medium (having redacted both parties' Confidential Information), including a summary of any changes to the Agreement agreed from time to time.

- 11.3 Nothing in this clause 11 will prevent either party disclosing any Confidential Information of the other party:
- (a) for the purpose of the examination and certification of its accounts and/or pursuant to section 6(1) of the National Audit Act 1983;
  - (b) to any government department, consultant, contractor or other person engaged by that party, provided that party only discloses information that is necessary for the purpose concerned and obtains appropriate confidentiality undertakings in relation to such information; and/or
  - (c) where disclosure is required by Law, including under the Information Acts to the extent they apply to that party and to the extent that no exception to disclosure under them is applicable; or
  - (d) where ARIA (acting reasonably) considers disclosure necessary or appropriate for the carrying out of its public functions.
- 11.4 Nothing in this clause 11 will prevent either party from using any techniques, ideas or know-how gained during the performance of its obligations under this Agreement in the course of its normal business or activities, to the extent that this does not result in a disclosure of the other party's Confidential Information or an infringement of the other party's Intellectual Property Rights.

## **12. STATUTORY DUTIES**

- 12.1 Each party must comply with its obligations under the Law, including where applicable, the Information Acts, the EA and the HRA and you shall notify ARIA immediately of any investigation of or proceedings against you under the EA.
- 12.2 You acknowledge that ARIA is subject to requirements under the Information Acts (other than the FOIA) and you will provide reasonable assistance and cooperation to ARIA to assist ARIA's compliance with its information disclosure obligations.
- 12.3 You acknowledge that ARIA, acting in accordance with the codes of practice issued and revised from time to time under the Information Acts (other than the FOIA), may disclose information concerning you and this Agreement without consulting you. ARIA must take reasonable steps to notify you of any request for information to the extent that it is permissible and reasonably practical for it to do so and will give you adequate opportunity to make representations to ARIA before it discloses any information relating to such matters. ARIA will be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the Information Acts.
- 12.4 Where you are subject to the Information Acts and receive a request for disclosure that relates to ARIA or this Agreement you will notify ARIA and give ARIA adequate opportunity to make representations to you before you disclose any information relating to such matters.

12.5 You must take account of the requirements of the National Security and Investment Act 2021 before assigning or licensing Results or Foreground IP. You are encouraged to give a voluntary notice to the Secretary of State under the Act in advance of any such assignment or licence if the assignment or licence is likely to meet the requirements of section 18 of the Act and inform ARIA if any mandatory or voluntary notification is made.

12.6 You must take account of the account of the Secure Innovation and Trusted Research Guidance. You must also consider any risks to the physical safety and security of the public and implement any appropriate mitigations and measures where the Project Activities you carry out have the potential to interact with the public.

### 13. DATA PROTECTION

13.1 Each party must comply with all times with its obligations under the Data Protection Legislation. At ARIA's request you must provide ARIA with all relevant documents and information relating to your data protection policies and procedures that ARIA may reasonably request.

13.2 The parties do not envisage that either party will process any Personal Data for or on behalf of the other party under or in connection with this Agreement. Where either party anticipates that the other will process any Personal Data on its behalf under this Agreement it must notify the other party and the parties must agree a variation to this Agreement to incorporate appropriate provisions in accordance with Article 28 of the GDPR, or as otherwise required by the Data Protection Legislation. These provisions may be set out in Schedule 4, where applicable.

### 14. NOT USED

### 15. INTELLECTUAL PROPERTY RIGHTS

15.1 You must act in good faith and comply with the spirit of clauses 15 and 16 and not seek to avoid their application by artificial means.

#### **Background IP**

15.2 This Agreement does not affect the ownership of your Background IP. You must notify ARIA during the Term if any additional Background IP is required either to carry out the Project Activities or to exploit commercially any of the Results (in each case such Background IP being **Required Background IP**).

#### **Foreground IP ownership and licensing**

15.3 Subject to Clauses 15.4 and 16.2, the Foreground IP shall belong to you and:

- (a) you hereby grant to ARIA a UK-wide irrevocable, royalty-free non-exclusive licence to use the Foreground IP for Programme Use; and

(b) you will cooperate with ARIA to facilitate collaborations and future licensing arrangements with Third Parties to develop and commercialise the Foreground IP generated, subject to fair and reasonable terms.

15.4 Where you assign or exclusively license the Foreground IP to a Third Party, you must impose on that Third Party all of the obligations set out in clause 15 and 16.

**Attribution to ARIA**

15.5 You must ensure that whenever any Results are used with or communicated to Third Parties or are exploited commercially, ARIA's funding of the Project is suitably accredited in accordance with ARIA's accreditation guidelines in force at the time. When using ARIA's name and logo you will comply with ARIA's branding guidelines in force at the time.

**Patenting and Publication**

15.6 You must ensure that all Foreground IP is protected and managed in a professional manner, which may include patenting of any Results that are patentable.

15.7 You must notify ARIA where practicable at least 30 days (and in any event at least 48 hours) before publication of any Results by any person. This is intended to give ARIA the opportunity to discuss with you the possibility of filing a patent application before publication, and if appropriate assisting you with that process.

15.8 You must give ARIA as much notice as possible, but no less than 30 days' notice, of any decision to abandon or withdraw patent protection for any of the Results for the lifetime of the relevant patents or such shorter period as is agreed with us so that ARIA can consider whether it wishes to request the assignment of the patents to ARIA or its nominee.

**16. COMMERCIALISATION OF FOREGROUND IP AND RESULTS**

16.1 Where they are capable of exploitation you should use all reasonable endeavours to exploit the Results. This should be done in accordance with the Commercialisation Hypothesis.

16.2 If for any reason you choose not to exploit any of the Results within the timeframe set out in the Commercialisation Hypothesis, you are encouraged to discuss the position with ARIA, and you may request that ARIA exploit them or assist you with their exploitation. In this case ARIA may request that you assign the relevant Foreground IP to it or its nominee. Any assignment would include a licence back to the relevant Foreground IP for research purposes.

**Non-UK Commercialisation**

16.3 To avoid any restriction on commercialisation, no consent is required from ARIA for any non-UK commercialisation or any sale of Foreground IP to a Non-UK Entity. However, ARIA is set up to create value for the UK and therefore you must secure a fee payable to ARIA (**ARIA Non-UK Fee**) in each of the following circumstances:

- (a) where you are or become a Non-UK Entity;
  - (b) where you assign or license any Foreground IP to a Non-UK Entity; or
  - (c) where you have assigned or licensed any Foreground IP to a UK Entity that subsequently becomes a Non-UK Entity.
- 16.4 For any Non-UK Entity that owns Foreground IP, the ARIA Non-UK Fee royalty percentage on the sale or supply of products or services that are covered by, use or incorporate the Foreground IP is set out in Annex 2.
- 16.5 For licensing or assignment of Foreground IP to Non-UK Entities, the ARIA Non-UK Fee will be based on the arms-length terms that you agree with any person to which you assign or license the relevant Foreground IP. The ARIA Non-UK Fee is an additional twenty-five per cent (25%) of the consideration (including upfronts, licence fees, Agreed Output Payments, royalties, shares or other securities, buyouts, exit fees and other consideration) that you receive from the exploitation of the relevant Foreground IP during any period that the above circumstance exists.
- 16.6 For example, if you would receive £100 (via royalty or royalty buyout), you must ensure your contractual mechanism enables you to collect an additional £25 and pay that additional amount to ARIA.
- 16.7 The ARIA Non-UK Fee is payable within 90 days after the end of each relevant calendar year for receipts related to that calendar year. You are encouraged to use the clauses in Annex 1 of this Agreement in your licences of Foreground IP for consistency with the terms of this Agreement.
- 16.8 You must, on written request by ARIA, promptly assign any Intellectual Property in the Results or Foreground IP to ARIA (or to a Third Party nominated by ARIA) if you do not:
- (a) undertake further research and development work in respect of that Intellectual Property; or
  - (b) commercially exploit (and you are not using reasonable endeavours to commercially exploit) that Intellectual Property,
- within eight years of its creation, and each party shall bear its own costs in relation to any such assignment.

**Pricing for Crown Body customers**

- 16.9 You must ensure that any Crown Body is able to procure, in a reasonable timeframe and in suitable quantities for its requirements, any products and services that are covered by, use or incorporate the relevant Foreground IP:
- (a) at the Crown Discount price until the total Crown Discount given to all Crown Bodies equals two times the Approved Cost; and
  - (b) thereafter at the Most Favoured Nation Price; and

you must provide details of the yearly amount of Crown Discount being provided to ARIA within 90 days after the end of each calendar year. You must use reasonable endeavours to reach the total set out in clause 16.9(a)) within 10 years after the first sale to a Crown Body.

**17. EQUIPMENT**

17.1 You must take all practical steps to purchase all materials and equipment at a fair and reasonable price and provide invoices issued to you for equipment purchased in connection with the Project as part of the Approved Cost.

17.2 At the end of the Project Period all equipment purchased for use on the Project with funds provided by ARIA shall become your property.

**18. INSURANCE**

18.1 You must put in place and maintain adequate insurance (including public liability insurance) either as a self-insurance arrangement or with an insurer of good repute to cover all insurable claims and liabilities under or in connection with the Agreement. You must provide evidence of that insurance to ARIA on request.

**19. ASSIGNMENT AND SUB-CONTRACTING**

19.1 You may not, transfer, assign, novate or otherwise dispose of the whole or any part of the Agreement or any rights under it, to another organisation or individual, without ARIA's prior written consent. You may only Sub-Contract any of the Services or Project Activities to Sub-Contractors identified in Schedule 2, Part 1 or with ARIA's prior consent. You must seek ARIA's prior consent to appoint any new Sub-Contractors not identified in Schedule 2 Part 1. You shall be responsible for the acts and omissions of any Sub-Contractors as though they were your own.

**20. NOT USED**

**21. PUBLICITY**

21.1 The parties will agree the text of a press release or other announcement to publicise the award of the Project and all such publicity must comply with ARIA's accreditation and branding guidelines. Neither party may make any other press release or announcement about the Project or publicise details of the Agreement without the other's consent, except as required by Law.

21.2 You must comply with all reasonable requests from ARIA to facilitate visits and provide reports, statistics, photographs (with consent of your personnel if required) and case studies that will assist ARIA in its promotional and impact assessment activities relating to the Project Activities.

**22. EVENTS OF DEFAULT AND TERMINATION**

**Events of Default**

- 22.1 ARIA may exercise its rights set out in clause 22.2 if any of the following events (**Events of Default**) occur:
- (a) you fail to comply with any of your obligations under clauses 2.2, 7.2, 9.1, 11, 12, 13 or 25, or commit a material breach of any other term of this Agreement in the reasonable opinion of ARIA;
  - (b) you do not commence the Project Activities within 30 days after the Commencement Date unless an extension is agreed with ARIA;
  - (c) you fail to improve the performance of the Project Activities having undertaken the remedial activity agreed with ARIA under clause 6.2;
  - (d) you provide ARIA with any materially misleading or inaccurate information in the specification for the Project as detailed in Schedule 2 or in subsequent related correspondence;
  - (e) you commit a Prohibited Act or fail to report a Prohibited Act to ARIA, whether committed by you or a Sub-Contractor, immediately upon becoming aware of it;
  - (f) you are subject to an Insolvency Event;
  - (g) you undergo a Change of Control which will, in the reasonable opinion of ARIA:
    - (i) be materially detrimental to, or result in fundamental changes to, the Project;
    - (ii) result in your being unable to undertake the Project; and/or
    - (iii) raise national security concerns.

**Rights reserved for ARIA in relation to an Event of Default**

- 22.2 If ARIA determines that an Event of Default has or may have occurred, ARIA may by written notice to you take any one or more of the following actions:
- (a) suspend the payment of the whole or any part of Agreed Output Payments for such period as ARIA may determine, acting reasonably; and/or
  - (b) reduce the Approved Cost, in which case the Agreed Output Payments will thereafter be made in accordance with the reduction and notified to you; and/or
  - (c) cease to make Agreed Output Payments to you under this Agreement and/or require you to repay ARIA the whole or any part of the Agreed Output Payments previously paid to you save for unavoidable costs already committed; and/or
  - (d) terminate this Agreement with immediate effect as from the date of service of the notice of that termination.
- 22.3 Where this Agreement is terminated for an Event of Default that is or includes a Prohibited Act, ARIA may require you to repay the entire amount of the Agreed Output Payments previously paid to you.

**Opportunity for you to remedy an Event of Default**

- 22.4 If ARIA wishes to exercise any right under clause 22.2 in connection with an Event of Default which ARIA considers remediable:

- (a) ARIA will provide reasonable notice to you specifying particulars of the Event of Default, how it must be remedied and the timescales for its remedy; and
- (b) following receipt of a notification under clause 22.6(a), you will be given a reasonable opportunity to remedy the Event of Default before ARIA exercises the relevant right under clause 22.2.

**22.5 General Termination Rights**

22.6 Without prejudice to any other provision of the Agreement, either party may terminate the Agreement at any time by giving at least 60 days' prior written notice to the other party.

22.7 Pursuant to clause 2.5, if ARIA is unwilling to accept a nominated successor(s) to Key Staff on it may terminate the Agreement by at least 30 days' written notice to you.

**Consequences of Termination**

22.8 Termination of this Agreement, however caused, shall not:

- (a) release you from any duty or obligation of confidence which falls on you your servants, agents, employees or former employees under this Agreement or under the general law governing confidential information;
- (b) prejudice or affect any rights, action or remedy which shall have accrued before termination or shall accrue thereafter to any party; or
- (c) affect the continuing obligations of the parties under this Agreement.

22.9 If ARIA terminates the Agreement for convenience under Clause 22.5, it shall indemnify you from and against all and any actual loss unavoidably incurred by reason or in consequence of the termination provided that you take all immediate and reasonable steps to minimise the loss.

22.10 If the Agreement is terminated under Clause 22.1 ARIA will not pay any sum which, when taken together with any sums paid or due or becoming due to you under this Agreement, will exceed such total sums as would have been payable under this Agreement if you had fulfilled your obligations under this Agreement.

**23. DISPUTE RESOLUTION**

23.1 The parties must use all reasonable endeavours to resolve in good faith any dispute that arises during the term of the Agreement.

23.2 All disputes and complaints (except for those that relate to ARIA's right to withhold funds or terminate the Agreement) must be referred in the first instance to the ARIA Representative and the Contractor's Representative.

23.3 If the dispute cannot be resolved between the ARIA Representative and the Project Representative within a maximum of 15 Working Days, then the matter will be escalated to senior officers of the parties for resolution.



23.4 If within a further 10 Working Days after such meeting the dispute has not been resolved, the dispute may be referred, by either party, to mediation. The parties shall agree the mediator within 10 Working Days. The fee for the appointed mediator shall be shared equally between the parties.

23.5 Nothing in this Clause 23 shall preclude either party from commencing proceedings.

## **24. LIMITATION OF LIABILITY**

24.1 Neither party's liability for any of the following shall be subject to the limitations or exclusions of liability otherwise provided for in this clause:

- (a) fraudulent misrepresentation or any other fraudulent act or omission;
- (b) payment of sums properly due and owing to the other in the normal course of performance of this Agreement; or
- (c) liability which may not lawfully be excluded or limited.

24.2 Subject to clause 24.1, ARIA accepts no liability for any consequences or Losses, whether arising directly or indirectly, that may arise in connection with:

- (a) your carrying out the Project Activities;
- (b) any reduction, suspension, withdrawal or request for repayment of the Approved Cost; or
- (c) termination of the Agreement for any reason.

24.3 Subject to clause 24.1 and save for the indemnity in clause 24.4, neither party will be liable to the other party, whether for breach of contract, tort (including negligence) or otherwise, for:

- (a) loss of profit, sales or turnover;
- (b) loss of contracts or business opportunities;
- (c) loss of anticipated savings;
- (d) loss of goodwill or damage to reputation; or
- (e) any indirect, special or consequential loss or damage;

in each case arising out of or relating to this Agreement, whether or not such loss or damage was foreseeable or the other party was advised of its possibility.

24.4 Subject to clause 24.1, each party's total aggregate liability arising out of or relating to this Agreement or its subject matter or anything which it has done or not done in connection with this Agreement or its subject matter (whether for breach of contract, tort, including negligence, or otherwise), will not exceed the Approved Cost.

24.5 You shall indemnify ARIA against all Losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by ARIA arising out of or in connection with:

- (a) any claim brought against ARIA for actual or alleged infringement of a Third Party's intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Services; and
- (b) any claim made against ARIA by a Third Party arising out of, or in connection with, the supply of the Services.

## 25. RESEARCH ETHICS AND INTEGRITY

25.1 Not Used

25.2 All research data:

- (a) must be generated using sound scientific techniques and processes;
- (b) must be accurately recorded in accordance with good scientific practices by the people conducting the research;
- (c) must be analysed appropriately, without bias and in accordance with good scientific practices; and
- (d) and the Results must be stored securely and be easily retrievable with document trails that allow reconstruction of key decisions and conclusions of the Project.

25.3 You must comply with the Code of Conduct and ensure that your Staff undertake their duties in a manner consistent with the principles set out in the Code of Conduct. You must immediately notify ARIA if you become aware of any actual or suspected breaches of the principles contained in the Code of Conduct.

## 26. VARIATIONS

26.1 Any variation to this Agreement will only be valid if it is in writing and signed by an authorised representative of each party. ARIA reserves the right, acting reasonably, to require you to comply with any additional conditions required by ARIA in its sole discretion before agreeing to a variation.

26.2 You may request a variation to the Agreement or the Project at any time giving full details of the justification of the request and ARIA may agree to vary the Agreement or refuse the request and require the continuation of the Project in accordance with the Agreement or give notice of termination in accordance with Clause 22.

## 27. GENERAL

27.1 **Force majeure:** Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any obligations under this Agreement to the extent such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 3 months, the party not affected may terminate this agreement by giving 30 days' written notice to the affected party.

- 27.2 **Notices:** All notices and other communications in relation to this Agreement must be in writing and will be deemed to have been duly given if personally delivered, e-mailed, or mailed (first class postage prepaid) to the address of the relevant party as stated in clause 2.1 of the Offer Letter. If personally delivered or if e-mailed all such communications will be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any Working Day they will be deemed received on the next Working Day) and if mailed all such communications will be deemed to have been given and received on the third Working Day following such mailing.
- 27.3 **Change of control:** You must notify ARIA as soon as practicable in writing of any arrangements that are in progress or in contemplation that if completed will result in a Change of Control, and must provide to ARIA sufficient details about the circumstances surrounding the proposed Change of Control and the identity of the proposed acquiror to allow ARIA to assess whether clause 22.3(f) is likely to apply.
- 27.4 **Severability:** If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed with the invalid provisions eliminated.
- 27.5 **Waiver:** The waiver by ARIA of any right or remedy in respect of any breach of any term or condition or requirement of this Agreement shall not prevent the subsequent enforcement and shall not be deemed to be a waiver of any right or remedy in respect of any subsequent breach.
- 27.6 **Relationships:** Nothing in this Agreement shall be construed as to make any party the employee, agent, partner or legal representative of the other party for any purpose whatsoever. No party is granted any right or ARIA to assume or create any obligation or responsibility, expressed or implied, on behalf of or in the name of the other party. In fulfilling obligations pursuant to this Agreement, you will be acting as an independent contractor at arm's length from ARIA.
- 27.7 **Contracts (Rights of Third Parties) Act 1999:** A person who is not a party to this Agreement shall have no right to enforce any terms of it which confer a benefit on him.

## 28. GOVERNING LAW

This Agreement will be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

## 29. DEFINITIONS AND INTERPRETATION

- 29.1 As used in this Agreement the following terms and expressions shall have the meaning ascribed to them below:

**Agreed Outputs** means the Agreed Outputs described in Schedule 2 Part 2 of this Agreement;

**Agreed Output Payments** means the payments made based on progress towards the Agreed Outputs as set out in Schedule 2 Part 2 of this Agreement;

**Approved Cost** means the total cost agreed between the parties for the Project as set out in offer letter, exclusive of VAT or other sales tax;

**ARIA's Representative** means the individual who has been nominated by ARIA to be your day-to-day point of contact in relation to the Project as set out in clause 2.1 of the Offer Letter;

**Background IP** means IP that is:

(a) owned by or licensed to a party prior to the Commencement Date; or

(b) developed by or on behalf of a party during the Project Period but not in connection with the Project Activities;

**Bribery Act** means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning this legislation;

**Change of Control** means the sale of all or substantially all your assets; any merger, consolidation or acquisition of you with, by or into another person, or any change in the ownership of more than fifty percent (50%) of your voting capital in one or more related transactions;

**Confidential Information** means any information (however conveyed, recorded or preserved) disclosed by a party to the other party whether before or after the date of the Grant Agreement, including:

(a) any information that ought reasonably to be considered to be confidential (whether or not it is so marked) relating to: (i) the business, affairs, customers, clients, suppliers or plans of the disclosing party; or (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party; (iii) any information developed by the parties in the course of carrying out the Project Activities; (iv) Personal Data supplied by either party to the other for the purposes of, or in connection with, the Grant Agreement; (v) and any information derived from any of the above, but not including:

(b) information which: (i) was public knowledge at the time of disclosure (otherwise than by breach of clause 13); (ii) was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party; is received from a Third Party (who lawfully acquired it) without restriction as to its disclosure; (iii) is independently developed without access to the Confidential Information; and (iv) the content of this specific version of the Grant Agreement, save in respect of any information which is exempt from disclosure under the Information Acts as they apply to the relevant party;

**Commencement Date** means the date set out in the Offer Letter;

**Commercialisation Hypothesis** means the exploitation plan set out in Schedule 2 Part 1, as it may be amended by agreement between the parties during and after the Project Period;

**Completion Date** means the date set out in the Offer Letter;

**Contractor's Representative** means a person authorised to represent you in respect of this Agreement and who shall have the authority to bind you in all matters under this Agreement as set out in clause 2.1 of the Offer Letter;

**Crown or Crown Body** means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

**Crown Discount** means the monetary value of the discount from the Most Favoured Nation Price given to a Crown Body;

**Data** means information collected and/or used for the purposes of the Project, which can be processed manually, electronically or by other means;

**Data Protection Legislation** means all applicable laws from time to time in force in England and Wales on data protection, including but not limited to, the Data Protection Act 2018, the retained EU law version of the GDPR and the Privacy and Electronic Communications (EC Directive) Regulations 2003, SI 2003/2426, and any national laws or regulations implementing Directive 2002/58/EC (as updated by Directive 2009/136/EC) and any judicial or administrative interpretation of any of the above, and any guidance, guidelines, codes of practice, approved codes of conduct and approved certification mechanisms issued by any relevant supervisory authority as applicable;

**Default** means any breach by a party to this Agreement of its obligations under this Agreement (including a fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of a party to this Agreement or its employees, agents or Sub-contractors in connection with or in relation to the subject matter of this Agreement and in respect of which such party is liable to the other;

**Group** in relation to a company, that company, any subsidiary or holding company from time to time of that company;

**EIR** means the Environmental Information Regulations 2004 or Environmental Information (Scotland) Regulations 2004;

**Escalation Contact** means the escalation contact appointed by ARIA or by you (as the case may be), which at the Commencement Date will be the individuals listed as such in the Offer Letter;

**Foreground IP** means the Intellectual Property developed during the Project;

**HRA** means the Human Rights Act 1998 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

**Information Acts** means the Data Protection Legislation and the EIR, as amended from time to time;

**Insolvency Event** means:

(i) where you pass a resolution, or the court makes an order that you be wound up (otherwise than for the purpose of a bona fide and solvent reconstruction or amalgamation); or (ii) a

receiver, manager or administrator on behalf of a creditor is appointed in respect of all or part of your business or assets; or (iii) circumstances arise which entitle a court or creditor to appoint a receiver, manager or administrator or which entitle the court (otherwise than for the purpose of a solvent and bona fide reconstruction or amalgamation) to make a winding up order; or (iv) you cease to trade or are unable to pay your debts within the meaning of the Insolvency Act 1986 or any similar event occurs under the law of any other jurisdiction;

**Intellectual Property or IP** means copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, know-how, trade secrets and any modifications, amendments, updates and new releases of the same and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

**Key Staff** means the persons named in Schedule 2 Part 1;

**Law** means any law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, judgement of a relevant court of law, or directives or requirements of any regulatory body, delegated or subordinate legislation.

**Losses** means all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgement, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise.

**Most Favoured Nation Price** means a price that is no higher than that offered to or agreed with any other customer for equivalent quantities of products or services;

**Non-UK Entity** means a legal entity that is not a UK Entity;

**Personal Data** has the meaning as defined in the Data Protection Act 2018 or successor legislation;

**Programme Use** means use by ARIA for internal non-commercial purposes in its programmes, which may include sharing Foreground IP, including reports, materials and prototypes, with, and permitting its use by, other actual participants in ARIA programmes, subject to confidentiality obligations and a prohibition on commercial use;

**Prohibited Act** means:

(a) directly or indirectly offering, giving or agreeing to give to any servant of ARIA or the Crown any gift or consideration of any kind as an inducement or reward for: (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of the Services; and/or (ii) showing or not showing favour or disfavour to any person in relation to the Agreement; or

(b) committing any offence: (i) under the Bribery Act; (ii) under legislation creating offences in respect of fraudulent acts; and/or (iii) at common law in respect of fraudulent acts in relation to this Agreement; and/or defrauding or attempting to defraud or conspiring to defraud ARIA or the Crown;

**Project** means the Research together with the Results;

**Project Period** means the period for the completion of the Project as set out in the Offer Letter;

**Representative** means any of the parties' duly authorised directors, employees, officers, agents, professional advisors and consultants;

**Required Background IP** has the meaning given in clause 15.1.

**Research** means the scope of work specified in Schedule 2 Part 1;

**Results** means any Data, reports or information or other material generated by the Project;

**Secure Innovation and Trusted Research Guidance** means the best practice for the implementation of basic protective security measures guidance provided by NCSC and NPSA which can be found on ARIA's website;

**Services** means the services being provided by you to enable fulfilment of the Project;

**Staff** means your Representative and all employees, consultants agents and Sub-Contractors which you engage in relation to the Project;

**Sub-Contract** means any contract or agreement or proposed contract or agreement between you and any Third Party whereby that Third Party agrees to provide to you the Services or any part thereof or facilities or services necessary for the provision of the Services or any part thereof or necessary for the management, direction or control of the Services or any part thereof, and **Sub-Contractor** shall be construed accordingly;

**Third Party** means any person or organisation other than you or ARIA;

**UK Entity** means a legal entity or group of legal entities that has its headquarters and principal establishment in the United Kingdom; and

**Working Day** means any day other than a Saturday, Sunday or public holiday in England and Wales.

29.2 The interpretation and construction of the Agreement shall be subject to the following provisions:

- (a) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- (b) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
- (c) the headings to Clauses are for ease of reference only and shall not affect the interpretation or construction of the Clauses;
- (d) references to Clauses are references to Clauses in the part of the Agreement (i.e. the Offer Letter or particular Schedule or Annex as the case may be) in which they appear, unless otherwise stated;
- (e) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time; and
- (f) the words "including", "other", "in particular", "for example" and similar words will not limit the generality of the preceding words and will be construed as if they were immediately followed by the words "without limitation".

**SCHEDULE 2**  
**PART 1: PROJECT ACTIVITIES**

**Use this schedule to describe the Research, your objectives, the specification for the Project etc in sufficient detail.**

**Please note that this schedule must contain details of following defined terms:**

**Commencement Date**

**Completion Date**

**Key Staff**



## **PART 2 PAYMENT DETAILS**

It is intended that the indicated amounts will be paid by ARIA to you within 30 days subject to contract conditions being met.

Subject to your compliance with the terms of this Contract, ARIA will make payments in accordance with the following:

[INSERT PAYMENT FREQUENCY OR AGREED PLAN]

**SCHEDULE 2**  
**PART 3: APPLICATION FORM**

[Include a copy of the Contractor's application including the Commercialisation Hypothesis]

### Schedule 3

#### Annex 1

#### Clause for inclusion in licences to Foreground IP

##### ARIA NON-UK FEE

[ ] .1 In this clause:

**ARIA** means the Advanced Research and Invention Agency;

**Non-UK Entity** means a legal entity that is not a UK Entity;

**UK Entity** means a legal entity or group of legal entities that has its headquarters and principal establishment in the United Kingdom.

##### Non-UK Commercialisation

[ ] .2 To avoid any restriction on commercialisation, no consent is required from ARIA for any non-UK commercialisation or any sale of Foreground IP to a Non-UK Entity. However, ARIA is set up to create value for the UK and therefore you must secure a fee payable to ARIA (**ARIA Non-UK Fee**) in each of the following circumstances:

- (a) where you are or become a Non-UK Entity and you exploit the Foreground IP yourself;
- (b) where you assign or license any Foreground IP to a Non-UK Entity; or
- (c) where you have assigned or Commercially Licensed any Foreground IP to a UK Entity that subsequently becomes a Non-UK Entity.

[ ] .3 If you are or become a Non-UK Entity and you exploit the Foreground IP yourself, the ARIA Non-UK Fee will be the royalty percentage set out in † Annex 2 on your own net sales of products and services covered by or incorporating the Foreground IP.

[ ] .4 If in any of the above circumstances you assign or license the relevant Foreground IP the ARIA Non-UK Fee will amount to an additional twenty-five per cent (25%) of the consideration (including upfronts, licence fees, milestone payments, royalties, shares or other securities, buyouts, exit fees and other consideration) that you receive from the exploitation of the relevant Foreground IP during any period that any of the above circumstances exist. Where you charge royalties to a licensee that is or becomes a Non-UK Entity the royalty you must charge is set out in Annex 2.

[ ] .5 For example, if you are a Non-UK Entity and you sell a product based on Foreground IP for £100, the payment to ARIA would be £0.25. If you license or assign the Foreground IP and you receive £100 (via royalty or royalty buyout), you must ensure your contractual mechanism enables you to collect an additional £25 and pay that additional amount to ARIA.

[ ] .6 The ARIA Non-UK Fee is payable within 90 days after the end of each relevant calendar year for receipts related to that calendar year.

## **Annex 2**

### **ARIA Non-UK Fee Royalty Percentage for sales**

The sales royalty rate for the ARIA Non-UK Fee (for products or services that are covered by, use or incorporate the Foreground IP) shall be 0.25% of the net sales of products or services payable for ten (10) years from the date of first sale.